

REMARKS

Claims 22, 23, 24, 25, 28, 29, 32, 34, 35, 38, 39, and 40 are currently pending. Claims 1-21 were previously canceled. Claims 26, 27, 30, 31, 33, 36 and 37 have been canceled and claims 38, 39 and 40 currently added.

No new matter has been introduced. Support for the amendment is found, for example, on page 10, lines 11-17. This paragraph teaches using a polymer such as polymethylmethacrylate, polybutylmethacrylate and ethylene vinyl acetate and mixtures thereof for the drug layer. Further, page 11, line 6 teaches use of rapamycin and more particularly with polymethylmethacrylate or polybutylmethacrylate. Accordingly, the claims have ample support in the specification.

As indicated before, the Examiner is requested to acknowledge priority to application serial number 09/676,049, filed on September 28, 2000, now US Patent No. 6,716,444. Priority was properly established in the Preliminary Amendment dated October 3, 2003. This application is a continuation of U.S. Patent No. 6,716,444 such that these claims are entitled to at least the priority date of September 28, 2000.

Claims 22-37 have been rejected as being obvious in light of Kamath et al. Applicants submit the Kamath et al. reference fails to teach the elements of amended independent claims 22, 28 and 34. For example, with respect to claim 22, the reference fails to teach:

a polymeric coating including a therapeutic agent supported by the substrate, wherein the polymeric coating includes a **mixture of poly butyl methacrylate and ethylene co-vinyl acetate and the therapeutic agent includes rapamycin; and a barrier layer over at least a portion of the**

polymeric coating, wherein the barrier reduces the rate of release of rapamycin.

With respect to claim 28, the reference fails to teach:

polymethylmethacrylate or polybutylmethacrylate supported by the substrate, the polymeric layer containing rapamycin for administering rapamycin to the site in need of therapy by diffusing through the polymeric layer to the site; and

a barrier over at least a portion of the polymeric layer to reduce the rate of release of rapamycin from the implantable medical device.

With respect to claim 34, the reference fails to teach, a coating that includes “poly butyl methacrylate, rapamycin and optionally ethylene co-vinyl acetate; and forming a barrier layer for reducing a rate of release of rapamycin.”

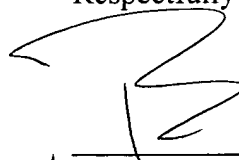
Claims 26, 27, 30, 31, 33, 36 and 37 have been canceled. Claims 23, 24, 25, 29, 32, 35, 38, 39, and 40 depend from claims 22, 28, and 34 and are allowable for at least the same reason. Removal of the rejection is respectfully requested.

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Examination and allowance of the application is hereby respectfully solicited. If the Examiner has any questions or concerns, the Examiner is invited to telephone the undersigned attorney, Cameron Kerrigan, at (415) 954-0323.

Respectfully submitted,



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